

Ordinance No. 16-02

ORDINANCE: To comprehensively amend Chapter 19 of the Rockville City Code, entitled “Stormwater Management and Sediment Control” so as to, among other things, bring the City’s requirements pertaining to stormwater management into compliance with current State of Maryland stormwater management regulations; to amend the criteria for requiring, designing, and approving stormwater management; to revise provisions pertaining to stormwater management alternatives to on-site stormwater control; to describe the role of watershed plans in stormwater management; to authorize the adoption of Regulations and guidelines by the Department of Public Works for the implementation of the ordinance; to provide for certain transition provisions; and to otherwise generally revise and amend the provisions of Chapter 19 of the Rockville City Code.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF ROCKVILLE, that Chapter 19 of the Rockville City Code, entitled “Sediment Control and Stormwater Management” is hereby repealed in its entirety and re-enacted with amendments as follows:

CHAPTER 19 - SEDIMENT CONTROL AND STORMWATER MANAGEMENT

ARTICLE I. IN GENERAL

Sec. 19-1. Definitions

For the purposes of this chapter, and any regulations established hereunder, certain words and terms used herein are defined as follows:

Administration means the Water Management Administration of the Maryland Department of the Environment (MDE).

Adverse impact means significant deleterious effects on waters or wetlands, including their quality, quantity, surface area, aquatic biologic health, or usefulness for human or natural uses which are or may potentially be harmful or injurious to human health, welfare, safety or property.

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Agricultural land management practices means those methods and procedures used in the cultivation of land in order to further crop and livestock production and conservation of related soil and water resources.

Applicant means any owner or developer who executes the necessary forms to procure official approval of a development project or a permit to carry out construction of a development project covered by this chapter.

Approved plan means, depending on the context in which the term is used, a stormwater management permit plan or sediment control permit plan approved by the Rockville Department of Public Works as being adequate to meet the requirements of this chapter.

Aquifer means a porous water bearing geologic formation generally restricted to materials capable of yielding an appreciable supply of water.

Builder means a general contractor or subcontractor who performs grading or construction for a developer.

Building means any structure that is built with walls and a roof.

Channel protection storage volume control (Cpv) means stormwater management of the runoff volume to provide 1-year, 24-hour extended detention control in structural practices to minimize stream channel erosion. Methods for calculating the channel protection storage volume are specified in the Design Manual.

City means the Mayor and Council of Rockville, a municipal corporation of that name chartered by the State. When appropriate, the term shall also refer to the legal boundaries of such municipal corporation and the land within it.

City Attorney means the City Attorney for the City of Rockville, or any Assistant City Attorney for the City.

City Manager means the City Manager for the City of Rockville, or an authorized representative.

Clearing means the removal of trees and brush from the land but shall not include the ordinary mowing of grass or trimming of vegetation for maintenance.

Conveyance, as used in connection with the conveyance of a stormwater management facility, means the transfer by deed in a form approved by the City Attorney, of fee simple title in the facility at no cost to the City.

Department means the Department of Public Works of the City of Rockville.

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Design Manual means the 2000 Maryland Stormwater Design Manual, Volumes I & II that serves as the official State guidance document for stormwater management principles, methods, and practices. The term includes any official revisions, amendments or additions by the Administration.

Developer means a person undertaking any or all the activities covered by this chapter, or for whose benefit such activities are commenced or carried on. General contractors and subcontractors without a proprietary interest in the development are not included within this definition.

Development means any construction, alteration, grading or improvement occurring on a specific area of land. Unless where the context indicates otherwise, the term *development* shall include redevelopment.

Development project means a project for the grading or construction of buildings, structures, paving or other improvements, or components thereof, upon a defined area of land consisting of one or more lots, tracts or parcels to be developed as an integrated whole.

Director means the Director of the Department of Public Works or the Director's authorized representative.

Drainage area means the area that contributes runoff to a single point measured in a horizontal plane, which is enclosed by a topographic ridgeline or contained in a storm drain catchment area.

Easement means a grant or reservation by the owner of land for the use of such land by others for a specific purpose or purposes.

Environmental Guidelines means the latest adopted version of the City of Rockville's Environmental Guidelines.

Erosion means the process by which the ground surface is worn by the action of wind, water, ice or gravity.

Erosion and sediment control measures means a system of structural and vegetative measures that minimize soil erosion and off-site sedimentation.

Excavation means any act, or the conditions resulting therefrom, by which soil, earth, sand, gravel, rock or similar material is cut into, dug, quarried, uncovered, removed, displaced or relocated.

Extended detention means a stormwater management feature that provides gradual release of a volume of water in order to increase settling of pollutants and protect downstream channels from

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erosion by frequent storm events. Methods for designing extended detention facilities are specified in the Design Manual.

Extreme flood volume control (Q_f) means stormwater management of the runoff volume required to control those infrequent but large storm events in which overbank flows reach or exceed the boundaries of the 100- year floodplain.

Facility means a stormwater management facility, and shall include all land, materials, and appurtenances used in construction and operation of the facility.

Floodplain means

- (1) a relatively flat or low land area adjoining a river, stream or watercourse which is subject to partial or complete inundation by the storm occurring, on average, once every hundred years;
- (2) an area subject to the unusual and rapid accumulation or runoff of surface waters from any source.

Flow attenuation means prolonging the flow time of runoff to reduce the peak discharge.

Grading means any act by which soil is cleared, stripped, stockpiled, cut, excavated, scarified, filled, grubbed, or any combination thereof.

Guidelines means policies and procedures developed by the Department interpreting and/or implementing the provisions of this chapter and/or the approved Regulations.

Impervious means the condition of preventing the downward passage of water.

Impervious area means area covered by compacted soil or gravel, paving, structures or other features that prevent the passage of stormwater into the soil. Impervious area also includes that portion of land surface covered by an elevated structure, such as a bridge or deck, regardless of whether the land surface itself remains porous or impervious.

Improved single-family residential lot, for purposes of this chapter, means a lot regardless of zone, improved with an existing structure containing a single one-family dwelling unit. This term includes townhouses and semi-detached dwellings located on separate lots and one-family dwellings that are modified to include an accessory apartment approved by special exception. This term does not include unimproved residential lots (i.e., lots that do not have existing residences) or any common area owned by a homeowner's association or similar entity.

Infill means development on a site surrounded by existing development and served by an improved storm drain system.

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Infiltration means the passage or movement of water into the soil surface.

Land disturbing activity means any earth movement or land use changes which may result in soil erosion or the movement of sediments into waters or onto other lands, including but not limited to, grading and related activities.

Mayor and Council mean the Mayor and Council of Rockville.

NRCS means the United States Department of Agriculture, Natural Resources Conservation Service, a federal agency that reviews and approves the technical design of small ponds in certain cases in conjunction with the Montgomery Soil Conservation District and in addition to the Department.

Non-structural stormwater management practice means a grading, vegetative, or conveyance practice designed to reduce the generation of stormwater runoff from a site in order to mitigate erosion, or reduce pollution, and provide other amenities or environmental benefits. Acceptable non-structural practices are described in the Design Manual.

Off-site stormwater management means the design and construction of a system necessary to control stormwater from a development but not located within the development.

On-site stormwater management means the design and construction of a system necessary to control stormwater within an immediate development.

Overbank flood protection volume control (Q_p) means stormwater management of the runoff volume to provide 10-year post-development discharge detained to 10-year pre-development discharge control by structural practices to prevent an increase in the frequency of out-of-bank or storm drain surcharge flooding generated by development. Methods for calculating the overbank flood protection volume are specified in the Design Manual.

Owner means the owner or owners of a site on which grading or construction is, will, or has been done.

Permit means either a Stormwater Management Permit, Sediment Control Permit, Public Works Permit, or Building Permit, as may be appropriate within the context of the specific provision of this chapter.

Permittee means any person to whom a permit is issued pursuant to this chapter.

Person means a natural person, corporation, company, partnership, association, joint venture, society, or governmental entity or agency, including the City and agencies of the City.

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Post-developed conditions means hydrologic conditions projected for the site after the approved development has occurred.

Private facility means any stormwater management facility not owned and operated by the City that serves one or more properties.

Pre-developed conditions means hydrologic conditions for land under meadow or forest cover prior to development.

Professional Engineer means an engineer duly licensed by the State of Maryland to practice professional engineering in accordance with provisions of Article 75½ of the Annotated Code of Maryland (1957 Edition, as amended).

Professional Land Surveyor means a land surveyor duly licensed by the State of Maryland to practice professional surveying in accordance with provisions of Article 75½ of the Annotated Code of Maryland (1957 Edition, as amended), and as may hereafter be amended.

Public facility means a stormwater management facility owned and operated by the City, whether or not the facility is located on privately owned land.

Qualified preparer means, in the case of stormwater management plans, a Professional Engineer, and in the case of sediment control plans, a Professional Engineer, Professional Land Surveyor, Licensed Landscape Architect or Licensed Architect, all duly licensed by the State of Maryland, or other person approved by the Department as qualified.

Recharge volume (Re_v) means that portion of the water quality volume used to maintain groundwater recharge rates at development sites. Methods for calculating the recharge volume are specified in the Design Manual.

Redevelopment means any construction, alteration, grading or improvement performed on sites with existing completed commercial, industrial, institutional or multi-family residential land uses. This term does not include subsequent phases of a multi-phase development.

Regional stormwater management facility means a public or private stormwater management facility that serves multiple properties.

Regulations means the regulations adopted by the Department and approved by the Mayor and Council.

Responsible personnel means any foreman, superintendent or project engineer who is in charge of on-site clearing and grading operations or sediment and erosion control.

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Retention structure means a permanent structure that provides for the storage of runoff and includes a permanent pool of water.

Retrofit means either the construction of a structural stormwater management system or a non-structural stormwater management practice in a previously developed area or the modification of an existing stormwater management system to improve water quality or quantity control above current conditions.

Runoff means water from storm events that flows across a developed site without infiltrating into the ground.

Sediment means soils or other surficial materials transported or deposited by the action of wind, water, ice, or gravity as a product of erosion.

Sediment Control Permit means the permit issued by the Department authorizing land disturbing activities in accordance with the provisions of this chapter.

Sediment Control Permit plan means a written plan designed to minimize erosion and prevent off-site sedimentation, which contains all information necessary to support a Sediment Control Permit.

Site means any tract, lot or parcel of land or combination of tracts, lots, or parcels of land, which are in one ownership, or are contiguous and in diverse ownership where development or redevelopment is to be performed as part of a unit, subdivision, or project.

Slope means:

- (1) The inclined exposed or vegetated slope of a fill, excavation, or natural terrain; or
- (2) The steepness of that surface, expressed in terms of the ratio of horizontal distance to vertical rise, or in terms of percentage of that ratio.

Soil means any earth, sand, gravel, rock or other similar material.

Stabilization means the prevention of soil movement by any of various vegetative and/or structural means.

Standards and specifications means those standards and specifications relating to erosion and sediment control and or stormwater management that may now or hereafter be established and/or adopted by the Department and/or the Administration.

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Stop work order means an order by the Department to cease all grading and construction work on a project until permit violations have been corrected. Work necessary to correct the violation or to protect against damage to the site is allowed.

Stormwater management means any measure designed to manage, control, and/or mitigate surface runoff from storms, including but not limited to stormwater management facilities and non-structural stormwater management practices.

Stormwater management alternatives means measures approved by the City in lieu of on-site stormwater management to provide equivalent stormwater management benefits or mitigate the effects of uncontrolled stormwater.

Stormwater management, quality control means a system of vegetative, structural, and/or other measures that reduce or eliminate pollutants that might otherwise be carried by surface runoff by managing Water Quality Volume and/or the Recharge Volume, or by other measures as may be approved by State law or regulation.

Stormwater management, quantity control means a system of vegetative and/or structural measures that control the increased volume and rate of surface runoff caused by man-made changes to the land by managing Channel Protection Storage Volume, Overbank Flood Protection Volume, and/or Extreme Flood Volume, or by other measures as may be approved by State law or regulation.

Stormwater Management Concept means proposed systems and methods for meeting the stormwater management obligations and goals for a development project, which shall include a conceptual engineering plan and supporting calculations and details, as required by the Regulations.

Stormwater management facility means a structural device to control or treat stormwater runoff to mitigate flooding and erosion and/or reduce pollution. It includes all land, materials, and appurtenances used in construction and operation of the facility.

Stormwater Management Fund means a dedicated enterprise fund established and maintained by the City to fund the design, construction and maintenance of the City's stormwater management facilities and watershed improvements, and to cover the City's administrative costs for stormwater management and sediment control reviews and inspections. It is funded by stormwater management monetary contributions and by administrative fees related to stormwater management and sediment control approvals, permits and inspections.

Stormwater Management Permit means the permit issued by the Department authorizing construction of stormwater facilities or watershed improvements, in satisfaction of and in accordance with the City's stormwater management requirements.

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Stormwater Management Permit plan means a drawing and other documents pertaining to a stormwater management facility or other watershed improvement that contain all information necessary to support a Stormwater Management Permit.

Stream buffer means the area of a perennial or intermittent stream and the land adjacent to the stream as defined by the latest version of the City's Environmental Guidelines.

Stream restoration means implementation of techniques to stabilize erosion, improve aquatic habitat and protect features near the stream banks for perennial and intermittent streams.

Stripping means any activity that removes the vegetative surface cover including tree removal, clearing, grubbing and storage or removal of topsoil.

Structural maintenance means the inspection, construction, reconstruction, maintenance, modification or repair of any part of a stormwater management facility to ensure that the facility remains in proper working order to serve its intended purpose.

Structural stormwater management facilities means constructed stormwater management methods, including but not limited to ponds, wetlands, infiltration systems, filtering systems, open channel systems, and underground storage systems, that are designed to meet the Design Manual's treatment standards.

Watercourse means any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine or wash, in and including any adjacent area that is subject to inundation from overflow or flood water.

Watershed means the total drainage area contributing runoff to a single point.

Watershed improvements mean the implementation of structural or non-structural practices to protect water quality, improve aquatic habitat, and/or reduce stream erosion. Such improvements may include stream restoration, fish passage barrier removal, wetland enhancement or other measures as approved by the Department.

Water quality volume control (WQ_v) means stormwater management of the volume needed to capture and treat the runoff from 90 percent of the average annual rainfall at a development site. Methods for calculating the water quality volume are specified in the Design Manual.

Sec. 19-2 Purpose.

- (a) The purpose of this chapter is to protect, maintain and enhance the public health, safety, and general welfare by establishing minimum requirements and procedures to manage the adverse impacts associated with increased stormwater runoff, sedimentation, grading and other land disturbing activities. Proper management

of stormwater runoff and construction-related erosion will minimize damage to public and private property, minimize stream channel erosion and degradation of water quality, and reduce local flooding.

- (b) This chapter satisfies the minimum requirements of Environment Article, Title 4, Subtitle 2, Annotated Code of Maryland, 1993 replacement volume pertaining to stormwater management, and Subtitle 1 and 2 pertaining to erosion and sediment control.

Sec. 19-3. Scope; exemption.

- (a) Except as otherwise provided, the stormwater management provisions of this chapter and the Regulations shall apply to any development activity within the corporate boundaries of the City that:
 - (1) involves five thousand (5,000) square feet or more of disturbed area; or
 - (2) creates or replaces two thousand (2,000) square feet or more of impervious area on an improved single-family residential lot; or
 - (3) creates or replaces any amount of impervious area on property other than an improved single-family residential lot; or
 - (4) requires a federal or state authorization for alteration of any floodplain, waterway, wetland or wetland buffer.
- (b) Except as otherwise provided, the sediment control provisions of this chapter and the Regulations shall apply to any development activity within the corporate boundaries of the City that:
 - (1) Involves five thousand (5,000) square feet or more of disturbed area; or
 - (2) Involves one hundred (100) cubic yards or more of grading; or
 - (3) Results in the construction of a new building; or
 - (4) Results in land disturbing activity within a stream buffer, as defined in the City's Environmental Guidelines.
- (c) The provisions of this chapter and the Regulations do not apply to the following:
 - (1) Agricultural land management activities;

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- (2) Land development activities that the Administration determines will be regulated under specific State laws which provide for managing stormwater runoff;
- (3) Clearing or grading activities that are subject exclusively to State approval and enforcement under State law or regulation;
- (3) Work performed by a utility contractor under a Washington Suburban Sanitary Commission utility sediment control permit which has been issued to the contractor pursuant to rules and regulations adopted by the Commission under Title 4, Subtitle 1, Environmental Article of the Annotated Code of Maryland.

Sec. 19-4 Interpretation.

- (a) The requirements contained herein are declared to be minimum requirements which are imposed and are to be conformed to and are in addition to, and not in lieu of, all other legal requirements. These requirements shall be liberally construed to accomplish the purposes set forth herein.
- (b) This chapter shall not be deemed to interfere with or abrogate or annul or otherwise affect in any manner whatsoever any ordinance, regulations, or permits; or easements, covenants, or agreements between parties; provided, however, that where this chapter imposes greater restrictions and controls than are imposed or required by other ordinances, regulations, or permits, or by easements, covenants or agreements between parties, the provisions of this chapter shall prevail.

Secs. 19-6 – 19-10. Reserved

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. ADMINISTRATION

Sec. 19-11 Department of Public Works.

- (a) The Department, under the supervision of its Director, shall administer the provisions of this chapter, and shall have such other powers and perform such other duties as are set forth in other sections of this chapter and the Regulations and as may be conferred or imposed from time to time.
- (b) The Department may exercise such inspection and enforcement authority for erosion and sediment control as is delegated to it by the Administration. If this

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authority is not delegated to the Department, the Administration shall retain such authority in accordance with COMAR 26.17.01.

- (c) The Department shall adopt Regulations for the implementation of the provisions of this chapter, which shall take effect upon approval by resolution of the Mayor and Council. Said Regulations may incorporate by reference appropriate federal, state, or local government documents. Any requirement or regulation established by the Administration shall be effective as a City Regulation immediately upon receipt by the Department of said requirement or regulation, subject to any grandfathering or transition period specified by the Administration.
- (d) The Department may develop guidelines, by whatever title, for the implementation of this chapter and the adopted Resolutions.

Sec. 19-12. Mayor and Council

- (a) The Mayor and Council shall by resolution:
 - (1) Establish all fees deemed necessary to cover the cost of administering the provisions of this chapter, including but not limited to permit fees, inspection fees, and plan review fees.
 - (2) Establish a rate and schedule of stormwater management monetary contributions.
 - (3) Approve Regulations adopted by the Department.

Secs. 19-13- 19-15. Reserved.

DIVISION 2. ENFORCEMENT AND PENALTIES

Sec. 19-16. Inspections

- (a) All work performed pursuant to a permit issued pursuant to this chapter shall be periodically inspected for compliance with the terms and conditions of the permit, approved supporting plans, this chapter, and the Regulations. The inspection shall be performed by the City or its authorized representative or, if directed by the City, by a Professional Engineer who shall certify the work's compliance.
- (b) The City shall issue written notification of any violations to the on-site personnel or the owner/developer describing the nature of the violation and the required corrective action.

- (c) The City may require additional engineering design and/or construction to bring the site into compliance with the approved permit or relevant law or regulation.

Sec. 19-17. Violations.

- (a) The following are violations of this chapter:
 - (1) Violation of any provision of this chapter or the Regulations.
 - (2) Failure to comply with the terms and/or conditions of any permits issued, agreements executed, or plans approved pursuant to this chapter.
 - (3) Failure to comply with the terms of any order, notice, or directive of the Department to stop work or to take corrective action.
- (b) A violation of this chapter shall constitute a municipal infraction pursuant to section 1-9 of this Code.

Sec. 19-18. Permit Suspension, Revocation, and Stop Work Order.

- (a) In addition to any other remedy, sanction or penalty provided for by this chapter, the Director shall have the authority to suspend or revoke any permit issued pursuant to this chapter and/or issue a stop work order for any of the following reasons. The Department shall determine the extent to which work may proceed to correct the violation or problem.
 - (1) Failure to comply with any condition of the permit;
 - (2) Changes in site characteristics upon which plan approval and permit issuance was granted;
 - (3) Failure to comply with the approved permit plans;
 - (4) Any unsafe or unworkmanlike operation;
 - (5) Excessive deviation from the approved permit plan in grading, construction methods or sequencing;
 - (6) Noncompliance with violation or correction notice(s) or stop work order(s) issued by the City;
 - (7) Failure to comply with any relevant ordinance or regulation.

- (b) When a permit issued pursuant to this chapter is suspended or revoked and/or a stop work order is issued, the City may also suspend Public Works Permits, Building Permits and any other City permits related to the Sediment Control or Stormwater Management Permit and stop work on those permits until the violation is corrected to the satisfaction of the Department.

Sec. 19-19. Additional penalties and remedies.

- (a) In addition to any other remedy, sanction, or penalty provided for by this chapter, the City may institute any one or more of the following actions:
 - (1) Impose additional engineering design, permits and/or construction requirements to bring the site into compliance with the approved permit or relevant law and/or regulation, and may require a permit revision to accomplish this;
 - (2) Institute civil action pursuant to section 1-9 and 1-11 of this Code to enforce the provisions of this chapter;
 - (3) Withhold bonds or other securities if reasonable efforts to correct the violation have not been undertaken;
 - (4) Institute any enforcement measures authorized by State law for violations of stormwater management requirements and/or sediment control requirements.
- (b) In addition to any other sanction, penalty, or remedy provided for by this chapter, this Code, or by State law, any person who fails to install or maintain stormwater management measures and/or erosion and sediment controls in accordance with approved plans shall be liable to the City for damages in an amount equal to double the cost of installing and/or maintaining the measures or controls. All damages recovered in accordance with this subsection shall be deposited in the Stormwater Management Fund.

Secs. 19-20 – 19-25. Reserved.

ARTICLE III. PERMIT REQUIREMENTS

Sec. 19-26. Permits Required.

No person may engage in any development activity covered by this chapter without a Stormwater Management Permit and/or a Sediment Control Permit issued by the Department, as required by this chapter and the Regulations.

Sec. 19-27. Permit Application.

- (a) An application for a permit shall be filed with the Department on forms supplied by the Department. A separate application shall be required for each permit, but a permit and application may cover any number of contiguous lots being developed as a single project.
- (b) Each permit application shall be supported by the following:
 - (1) Supporting plans and information required by this chapter and the Regulations;
 - (2) Required fees. Unless otherwise provided, all fees are non-refundable;
 - (3) Required bonds or other securities;
 - (4) Required agreements and/or easements;
 - (5) Any other information and documentation that the Department may deem necessary.
- (c) By filing a permit application, the applicant gives implicit consent to the City, its staff and consultants, to enter upon the subject property during the review process.

Sec. 19-28. Permit Review and Issuance.

- (a) All supporting plans shall be reviewed for compliance with this chapter, the Regulations and any applicable state or federal law. No plan shall be deemed to be approved until signed and dated by the Director.
- (b) All easements, dedications and agreements, as may be required by the City, must be approved by the City Attorney and, where appropriate, recorded among the Land Records for Montgomery County prior to the issuance of the permit.
- (c) All necessary State permits or approvals for work within a waterway, one-hundred (100) year floodplain, or a wetland or wetland buffer regulated by the State must be issued prior to issuance of the City's Sediment Control Permit and Stormwater Management Permit.
- (d) No permit shall be transferred from one developer to another without the written consent of the Department and the posting of a new security by the new applicant.

Sec. 19-29. Modification of requirements.

The Department may grant a written modification of any requirement, standard, or specification of this Chapter if there are exceptional circumstances applicable to the site such that strict adherence will result in unnecessary hardship or not fulfill the intent of the Chapter. A written request shall be provided to the Department stating the specific modifications sought and offering supporting justification. The Department shall not grant a modification unless and until sufficient justification is provided by the applicant. The Department may attach such conditions to the modification as it may deem appropriate.

Sec. 19-30. Permit Denial.

- (a) No permit shall be issued if the Department determines that the work proposed by the applicant is likely to endanger any property or public right-of-way.
- (b) If the land for which the land disturbing activity is proposed lies within the one-hundred year floodplain of any stream or watercourse, the Department shall deny a permit except where such land disturbing activity is authorized by the Administration, if required, and a floodplain variance is obtained pursuant to the provisions of Chapter 10 of the Rockville City Code.
- (c) Failure of the Department to observe or recognize hazardous conditions or failure to deny the permit shall not relieve the permittee from the responsibility for the hazardous conditions or damages resulting therefrom and shall not result in the City or its officers or agents being responsible for the damages resulting therefrom.

Sec. 19-31. Conditions of Permit Approval.

- (a) All permits are implicitly conditioned on the following:
 - (1) Compliance with the approved plans and with all relevant laws, ordinances, and regulations and standards of any federal, state or local government agency, including any standards established by the Department and the Administration relating to erosion and sediment control and stormwater management;
 - (2) The agreement and obligation of the applicant to save harmless the City from any expense incurred through the failure of the applicant, or the applicant's agents and servants, to complete any required erosion and sediment control or stormwater management measures, and/or from any damages growing out of the negligence of the applicant or the applicant's agents or servants;

- (3) The agreement and obligation of the applicant and the applicant's agents and servants to grant access to the property to City staff and consultants for purposes of inspection.
- (b) In addition, the Department may impose such express conditions on the permit as are reasonable and appropriate to prevent the creation of a nuisance or dangerous conditions or as are deemed necessary to accomplish the purposes of this chapter and the regulations, including, but not limited to, the imposition of a time sequence or time limit for performance of work.

Sec. 19-32. Permit Revisions.

- (a) At the request of the applicant, permits may be revised after issuance with such conditions as the City may impose and in accordance with the Regulations.
- (b) Requests for revisions to an approved permit shall be submitted in writing to the Department. Requests must include revisions clearly shown on the approved plans, revisions to supporting computations, and such other information as may be required by the Department. The Department must approve revisions in writing before the changes are constructed or implemented in the field, except as provided for in Article V of this chapter.
- (c) Permit revisions may be required by the Department where deemed necessary to correct a violation of the permit and/or applicable law, ordinance, or regulation, or correct plan inadequacies as revealed through inspection.
- (d) Permit revision fees must be paid and any bond adjustments made prior to approval of the revision request.

Sec. 19-33. Expiration; Extension.

- (a) Every permit issued pursuant to this chapter shall expire two (2) years from the date of issuance or at the end of any shorter period of time set out in the permit.
- (b) If unable to complete the work within the specified time, the permittee may, within thirty (30) days prior to expiration of the permit, present in writing to the Department a request for an extension of time, setting forth the reasons for the requested extension. For good cause shown, the Director may grant up to two (2) one-year permit extensions.
- (c) Where deemed necessary, the Department may condition a permit extension on the submission and approval of revised supporting plans and documentation, and/or a permit revision.

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- (d) Permit extension fees must be paid.

Sec. 19-34. Bonds and other security.

- (a) A performance bond or letter of credit issued by a surety company or financial institution authorized to do business in the State of Maryland shall be posted in a form acceptable to the Department and the City Attorney prior to the issuance of any permit authorized by this chapter. The Department, in its sole discretion, may accept a cash bond or other security satisfactory to the Department and the City Attorney.
- (b) The required security shall run to the Mayor and Council and shall secure the full and complete compliance with the permit.
- (c) The required securities shall be in an amount equal to the total estimated cost of the stormwater management or sediment control costs, including, but not limited to, the cost of materials, delivery costs to the construction site, and labor. A separate security shall be posted for each permit.
- (d) The Department shall not release any security until:
 - (1) It conducts a final inspection of the completed work, including required landscaping, and determines that all covered work complies with the applicable permit;
 - (2) Satisfactory as-built plans of the permitted stormwater management measures are submitted to the Department; and
 - (3) It receives recorded copies of any required agreements and easements.
- (e) The City may proceed to do whatever is necessary to cause the permitted work to be completed and to comply with the applicable permit, law, regulation, or condition, including but not limited to declaring a forfeiture of the bond or other security, and the permittee shall be liable for all expenses incurred thereby.

Sec. 19-35 - 19-36. Reserved

ARTICLE IV. STORMWATER MANAGEMENT

DIVISION 1. IN GENERAL

Sec. 19-37. Stormwater Management Policy.

Development has occurred within the City for which no stormwater management has been provided. It is the legislative goal and policy of the City that eventually stormwater management shall be provided for all new and existing developed land within the City. To this end, no person shall engage in development activity covered by this chapter without providing for stormwater management for such development as required by this chapter and the Regulations.

Furthermore, the City recognizes the policies of the Chesapeake Bay Agreement, to which the State of Maryland is a signatory. The City supports effective and innovative stormwater management policies and practices to protect the Bay and its tributaries. Accordingly, the City shall seek opportunities to implement functional stormwater and watershed management in both existing communities and new development with input from the State, civic associations, residents, businesses and developers where appropriate.

Sec. 19-38. Watershed Management Plans.

The Department may develop or update watershed management plans to identify specific stormwater management and stream protection goals, evaluate natural resource conditions, assess opportunities for watershed improvement, and develop a schedule for City-managed projects to be implemented through the Capital Improvement Program. Watershed management plans are primarily used to guide the City's stormwater management retrofit and stream restoration programs for developed areas, and are not intended to address stormwater management needs for new development. However, the Department may consider projects recommended in watershed management plans as acceptable alternatives to onsite stormwater management in accordance with this chapter and the Regulations.

Section 19-39. Transition provisions.

Where a previously implemented or constructed stormwater management measure designed to serve a proposed development site does not meet the requirements of this chapter or the regulations, no Public Works Permit or Building Permit shall be issued for work on the site after December 31, 2003, unless the Department first issues a new concept approval requiring such additional stormwater management measures as it deems necessary and appropriate to satisfy the requirements of this chapter and the regulations.

Sec. 19-40. Qualified Preparer for Stormwater Management Submittals.

As part of a Stormwater Management Concept or Stormwater Management Permit application, all plans, details and computations shall be prepared and certified by a Professional Engineer, except that a Stormwater Management Concept based solely on payment of a stormwater management monetary contribution may be prepared by a Professional Engineer, Professional Land Surveyor, Licensed Architect, or Licensed Landscape Architect, all of which must be licensed in the State of Maryland, or other qualified preparer.

Sec. 19-41 - 19-43. Reserved.

DIVISION 2. ON-SITE STORMWATER MANAGEMENT

Sec. 19-44. Onsite stormwater management required.

Stormwater management obligations shall be met by providing stormwater quality and quantity controls on-site wherever feasible in accordance with this chapter and the Regulations.

Sec. 19-45. On-site stormwater management criteria

- (a) On-site stormwater management facilities for development activity covered by this chapter shall include the following controls, which must meet the minimum requirements, specifications and methodologies set forth in the Regulations, the Design Manual, and Department guidelines.
 - (1) Stormwater management controls for water quality volume, channel protection volume, and overbank flood protection volume.
 - (2) Recharge measures. The Department shall review developments on a case-by-case basis and may omit the recharge requirement for situations that limit the practicality of recharge measures.
 - (3) Extreme flood volume control where the Department determines that historical flooding or the threat of flooding under ultimate land use conditions exists.
- (b) The Department may, on a case-by-case basis, modify the minimum stormwater management requirements, specifications and/or methodologies to address environmental, hydrologic, hydraulic, topographic, or other technical conditions or limitations.

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- (c) Non-structural stormwater management measures shall be incorporated into site designs to the extent practicable in accordance with the Design Manual and the Regulations.

Sec. 19-46 - 19-48. Reserved.

DIVISION 3. STORMWATER MANAGEMENT ALTERNATIVES.

Sec. 19-49. Stormwater Management Alternatives.

- (a) The Department, in its sole discretion, may accept or require stormwater management alternatives in lieu of some or all on-site stormwater quality and/or quantity control requirements where it determines that on-site controls are not practical or appropriate, or when on-site controls cannot meet the requirements of the Design Manual. Stormwater management alternatives may include, but are not necessarily limited to, one or more of the following:
 - (1) Granting of an easement or land conveyance for a regional stormwater management facility and/or other watershed improvements;
 - (2) Design, permitting and/or construction of a regional stormwater management facility or retrofit of an existing stormwater management facility;
 - (3) Design, permitting and/or construction of watershed improvements on private or public land;
 - (4) A monetary contribution to the City's Stormwater Management Fund in accordance with the Regulations and the contribution schedule set by resolution of the Mayor and Council; and/or
 - (5) Such other measures that the Department deems appropriate to meet the intent of this chapter and the Regulations.
- (b) The City shall not approve the use of stormwater management alternatives unless it is determined, on a case-by-case basis and at the sole discretion of the City, to be in the best interest of the City, considering, among other things, cost to the City, effectiveness, safety concerns, potential maintenance problems, and past experience or lack thereof with the alternatives, the on-site control measures, and/or the applicant. In addition, no stormwater management alternative shall be approved if the City determines that the absence of on-site stormwater management presents unacceptable risk of flooding or other stormwater damage.

- (c) Use of stormwater management alternatives shall not relieve the applicant of the responsibility of providing additional improvements for storm drainage, stream stabilization and/or other facilities, either on-site or off-site, as may be deemed necessary by the Department to provide safe conveyance and to avoid or minimize damage to other properties and waterways.
- (d) The Regulations shall contain criteria for reviewing and approving requests to use stormwater management alternatives.

Sec. 19-50. Stormwater Management Alternatives; Stormwater Management Monetary Contribution.

- (a) Monetary contributions to the City's Stormwater Management Fund may be used by the City for one or more of the following:
 - (1) Land acquisition (including easements and rights-of-way);
 - (2) The study, design, purchase, construction, expansion, repair, maintenance, landscaping, and/or inspection of:
 - a. Public stormwater management facilities;
 - b. Stream restoration projects;
 - c. Storm drain outfall stabilization or repair;
 - d. Or other watershed improvement projects.
 - (3) Monetary contributions shall not be used for construction, maintenance or repair of conventional storm drain systems.
- (b) The payment of a stormwater management monetary contribution in connection with prior development on the site shall not:
 - (1) Relieve the applicant of the responsibility of providing on-site stormwater management for redevelopment where on-site measures are deemed to be most effective and appropriate; nor
 - (2) Obligate the City to accept a monetary contribution for new development or redevelopment on the site.
- (c) Neither the cost of providing on-site stormwater management nor the loss of development density resulting from on-site stormwater management is sufficient

justification for a stormwater management monetary contribution without other evidence demonstrating that on-site stormwater management is ineffective and/or inappropriate in light of other alternatives.

Secs. 19-51 – 19-55. Reserved.

DIVISION 4. STORMWATER MANAGEMENT APPROVALS

Sec. 19-56. Stormwater Management Concept.

- (a) The applicant shall submit a Stormwater Management Concept application at the earliest stage of the development review process. The applicant must receive approval of a Stormwater Management Concept before submitting an application for a Stormwater Management Permit.
- (b) Application shall be made on a form provided by the Department and shall include all information required by the regulations.
- (c) The Department may require amendments to the approved Stormwater Management Concept plan to address applicable changes to stormwater management standards as approved by the Department or the Administration.
- (d) Any proposal to use stormwater management alternatives, including stormwater management monetary contributions, in lieu of on-site stormwater management shall be reviewed by the Department as part of the Stormwater Management Concept.

Sec. 19-57. Stormwater Management Permit.

- (a) No structural stormwater management facility or watershed improvement shall be constructed prior to issuance of a Stormwater Management Permit.
- (b) No permit allowing construction of impervious area may be issued prior to issuance of any related Stormwater Management Permit required by this chapter and the Regulations.
- (c) A Stormwater Management Permit shall comply with stormwater management standards and requirements in effect at the time of permit issuance.
- (d) The approved plans shall serve as the basis for all subsequent construction, and construction contrary to the approved plan and any approved revision is prohibited.

- (e) After Stormwater Management Permit issuance and once construction is complete, the permittee shall submit as-built plan certifications for approval by the Department to ensure that constructed stormwater management practices and conveyance systems comply with the specifications contained in the approved plans and any approved revisions.

Secs. 19-58-19-60. Reserved

DIVISION 5. MAINTENANCE AND INSPECTION

Sec. 19-61. Maintenance Responsibility.

The owner of the property on which a private stormwater management facility or watershed improvement is located, or any other person or agent in control of such property, shall maintain in good condition, and promptly repair and restore, all grade surfaces, walls, drains, dams and structures, vegetation, erosion and sediment control measures, and other devices. Such repair, restoration, and maintenance shall be in accordance with approved plans.

Sec. 19-62. Correction of unsafe/improper condition.

If the Director determines that the condition of any stormwater management facility presents an immediate danger to the public health or safety because of an unsafe condition or improper maintenance, the Director shall take such actions as may be necessary to protect the public and make the facility safe. Any costs incurred by the City as a result of the Director's action shall be assessed against any or all of the owners of the property served by said facility who shall be jointly and severally liable for all said costs and whose property shall jointly and severally be subject to a lien for said costs which may be placed on the tax bill of any or all such property and collected as ordinary taxes.

Sec. 19-63. Maintenance Agreement and Easement.

- (a) Prior to the issuance of any Stormwater Management Permit for a private facility, the City shall require the applicant or owner to execute an inspection and maintenance agreement and a stormwater management easement acceptable to the City Attorney and binding on all subsequent owners of land served by the facility. Such agreement shall provide for access to the facility at reasonable times for regular inspections by the City or its authorized representative to ensure that the facility is maintained in proper working condition. The easement shall include sufficient area for access from a public road or right-of-way for, inspection and maintenance by the owner, applicant and, if necessary, by the City, its agents and representatives.

- (b) The agreement shall also provide that if after notice by the City to correct a violation requiring maintenance work, satisfactory corrections are not made by the owner(s) within a reasonable period of time as determined by the Department, the City may perform all necessary work to place the facility in proper working condition. The owner(s) of the facility shall be assessed the cost of the work and any penalties, which shall be a lien on the property, and which may be placed on the tax bill for all such property and collected as ordinary taxes by the City. The owners of all property served by the facility shall be jointly and severally responsible to the City for the maintenance of the facility and liable for any costs incurred by the City pursuant to the agreement, and all such properties are jointly and severally subject to the imposition of liens for said costs.
- (c) The agreement shall contain any other provision as may be required by the Department or the City Attorney.
- (d) The agreement and easement shall be recorded by, and at the expense of, the applicant and/or owner in the Land Records of Montgomery County. Where the easement area can be determined prior to the recordation of the plat, it shall be shown on the record plat.

Secs. 19-64-19-70. Reserved

ARTICLE V. EROSION AND SEDIMENT CONTROL

Sec. 19-72. Qualified Preparer for Sediment Control Permit.

As part of a Sediment Control Permit application, all sediment control plans and computations shall be prepared and certified by a Professional Engineer, Professional Land Surveyor, Licensed Architect, or Licensed Landscape Architect, all of which must be licensed in the State of Maryland, or other qualified preparer. The plan shall meet the requirements of this chapter and the regulations.

Sec. 19-73. Referral.

Where required by State law, a copy of the sediment control plan shall be referred to the Administration for review, recommendations, and approval of the proposed sediment control measures.

Sec. 19-74. Sediment Control Permit; Sediment Control Plan.

- (a) The Sediment Control Permit must be issued prior to the issuance of any Building Permit or Public Works Permit and prior to the land-disturbing activity subject to the requirements of this chapter.

Ordinance No. 16-02

- (b) The City's inspector may approve minor modifications in the field to an approved sediment control plan in accordance with a list of allowable field modifications approved by the Department and the Administration. Minor field modifications shall be documented in a field inspection report by the Department's inspector.

Secs. 19-75 – 19-85. Reserved.

* * * * *

I hereby certify that the foregoing is a true and correct copy of an ordinance adopted by the Mayor and Council at its meeting of September 9, 2002.

Claire F. Funkhouser, CMC, City Clerk

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September 20, 2002